

OGC 80-10691
15 December 1980

OGC Has Reviewed

MEMORANDUM FOR: See Distribution

FROM :
Office of General Counsel

SUBJECT : CNSS FOIA Litigation: Document Processing
Timetable

1. This is to advise you this Office may enter into a formal agreement with Plaintiff's counsel in the CNSS litigation--an agreement which will establish document processing timetables for each of the seven FOIA requests at issue in this case whose processing has not yet been completed.^{1/} The processing timetable likely to be established by this agreement is indicated below:

<u>FOIA Request</u>	<u>Processing Completion Date</u>
Family Jewels	January 16-31, 1981
60 Footnotes	January 16-31, 1981
Village Voice Leak of Pike Committee Report	January 16-31, 1981
Welch Assassination	January-February 1981 ^{2/}
Project II	March 1-15, 1981
1953 Iranian Coup	June-August 1981

^{1/} The remaining FOIA requests at issue in this litigation, five in all, require little additional action at this time. This is so because this Agency has filed affidavits regarding its refusal to release the documents requested.

^{2/} The timetable for processing the Welch request will be determined according to a specified formula depending upon the number of responsive documents located.

2. This timetable will be established as part of a compromise agreement. The gist of this compromise is that Plaintiffs will hold their various motions, discovery requests, and other objections in abeyance, in exchange for this Agency's formal commitment to complete the processing of responsive documents in accordance with a specified timetable.^{3/}

3. I believe such an agreement is advantageous to this Agency. This is so because of the status of the first four requests at issue in this litigation--requests filed several years ago. The delays associated with the processing of these requests may prove difficult to justify fully and persuasively and might serve as a basis for discovery against this Agency. It must be remembered that some of the first four FOIA requests have been pending for some time. For example, Morton Halperin's Family Jewels Request was sent to CIA by letter dated January 19, 1976--almost five years ago.

4. In order to persuade Plaintiff's counsel to agree not to litigate the Agency's failure to complete the processing of such requests--requests that have been outstanding 4 or 5 years--a relatively short processing timetable is essential. This is especially true with regard to the Family Jewels, 60 Footnotes and Village Voice (Pike Committee) requests.

5. I realize that processing these requests in accordance with the proposed timetable will require your support. Frankly speaking, I do not believe the Agency has much of a choice in this matter, especially with regard to Halperin's older FOIA requests. If such an agreement is not reached, it is likely that Plaintiff's counsel will move vigorously and immediately for a court-established processing timetable and will seek discovery aimed at uncovering the reasons underlying the delays these requests have encountered.

6. In my opinion, the Agency is better served in this case by this proposed agreement--especially on the facts of several of the individual FOIA requests.

^{3/} A document will have completed "processing" when it has been reviewed for releasability at the component level, coordination with OGC, and a response dispatched to Plaintiff. The processing of a particular document is "completed" when it is dispatched to Plaintiff in sanitized form or when Plaintiff is advised that the document is released in full or withheld in its entirety.

7. Although I have spoken with many of you regarding the proposed timetables--particularly those individuals with the largest number of responsive documents to process--I know I have not spoken with everyone concerned. Accordingly, you should advise me immediately if you cannot meet the processing timetables indicated in paragraph 1. Particular care should be given to those timetables which require processing to be completed sometime between January 16-31.

8. Since proposed deletions must also be reviewed by OGC, you must allow time in your calculations for the review of responsive documents by this Office.

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9. With regard to documents associated with the Family Jewels, 60 Footnotes, and Village Voice FOIA requests, either I or [] will be consulting with each of you individually with regard to the processing of documents which must be reviewed for releasability. In order to ensure compliance with the proposed timetables, it is clear that your processing must be completed on a priority basis and within relatively short and inflexible time frames. You should, of course, begin work on such processing immediately and not await OGC consultation.

10. If an agreement is reached with Plaintiff's counsel, the proposed timetables will be submitted to the court and, as such, should be considered to be equivalent to court established processing deadlines--deadlines which must be met. If you believe you cannot complete the processing of any of the requests in accordance with the proposed timetables set forth in paragraph 1, particularly the first three timetables which indicate processing must be completed no later than the end of January 1981, please call me or [] immediately and in no event later than close of business on December 18, 1980.

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